

SERVICE DATE - MARCH 30, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33697

NATIONAL RAILROAD PASSENGER CORPORATION—PETITION FOR
DECLARATORY ORDER—WEIGHT OF RAIL

Decided: March 29, 2001

In response to a motion filed March 12, 2001, by the National Railroad Passenger Corporation (Amtrak), this decision establishes a procedural schedule for the filing of pleadings. The decision also requests the Federal Railroad Administration (FRA) to participate and orders the parties to serve copies of their pleadings on that agency.

In a decision in Application of the National Railroad Passenger Corp. Under 49 U.S.C. 24308(a)—Springfield Terminal Railway Company, Boston and Maine Corporation, and Portland Terminal Company, STB Finance Docket No. 33381 (STB served May 29, 1998), the Board prescribed the terms and compensation for Amtrak's access to facilities of railroads within the Guilford Rail System (Guilford).¹ Amtrak proposed to operate passenger rail service over Guilford lines between Plaistow, NH, and Portland, ME (hereafter, the Plaistow-Portland Line), in order to reintroduce passenger rail service between Boston, MA, and Portland. Amtrak proposed to operate the Boston-to-Portland service pursuant to an agreement with the Northern New England Passenger Rail Authority (NNEPRA). In its decision, the Board determined that it would not require the parties to submit subsequent disputes to arbitration. Rather, the Board stated that it would resolve any future disputes in an appropriate manner.

Thereafter, in response to a petition filed by Amtrak on December 11, 1998, the Board instituted a declaratory order proceeding to resolve a dispute over the appropriate weight of continuous welded rail that must be installed on the Plaistow-Portland Line in order to ensure safe operation of Amtrak trains at speeds up to 79 miles per hour. On October 22, 1999, the Board issued a decision in which it found that the installation of 115-pound, continuous welded rail on the Plaistow-Portland Line will be adequate for safe operation of trains at speeds of up to 79 miles per hour, under the condition that the line is rehabilitated and maintained to a standard that produces track modulus values of not less than 2,750 lb/in² and that otherwise satisfies FRA's track safety standards for rail passenger train operations up to such speeds.

¹ The Guilford Rail System is comprised of Springfield Terminal Railway Company, the Portland Terminal Company, the Boston and Maine Corporation, and the Maine Central Railroad Company.

On March 12, 2001, Amtrak filed a motion for testing access and clarification of the Board's October 22, 1999 decision. Amtrak and Guilford have reached an impasse over implementation of the Board's decision. Guilford has apparently raised issues concerning the particular test to be used and the timing and frequency of testing. Amtrak therefore requests: (1) entry of an order directing Guilford to grant Amtrak access to the line for the purpose of testing its track modulus; (2) clarification that Amtrak's use of the Track Loading Vehicle (TLV) owned and operated by the Transportation Technology Center, Inc. (TTCI), together with TTCI's testing methodology, is a reasonable approach for testing the line's track modulus; and (3) clarification that, if Amtrak's testing demonstrates that the required track modulus standards are satisfied, no further track modulus testing would be required.²

Amtrak requests that, as the TLV is available for use in July, the Board issue a final decision by June 30, 2001, so that Amtrak and NNEPRA can commit to July testing dates. To expedite matters, Amtrak requests that its pleading be treated as an opening statement, that Guilford be given 45 days to reply, and that Amtrak be given 15 days to file rebuttal. The proposed procedural schedule is reasonable and will be adopted.³

FRA, which has jurisdiction over rail safety matters and significant expertise, has participated in this proceeding, and its views contributed substantially to the Board's October 22, 1999 decision. Because the instant motion raises additional rail safety issues, the Board requests FRA to participate in this phase of the proceeding.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Guilford's reply statement is due May 14, 2001.
2. Amtrak's rebuttal is due May 29, 2001.
3. The parties must serve copies of their pleadings on FRA.⁴

² Amtrak assumes that the line would be maintained to FRA Class 4 standards, that it would be subject to routine FRA-mandated track safety inspections, and that it would be periodically inspected by Amtrak's track geometry car.

³ Pursuant to Guilford's request, which Amtrak does not oppose, the procedural schedule will begin to run from the date of service of this decision.

⁴ It is noted that Amtrak already has served a copy of its motion on FRA.

4. FRA is requested to participate in this proceeding. A copy of this decision will be served on that agency.

5. FRA's analysis and comment is requested by June 8, 2001.

6. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary